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Human rights situations that require the Council's attention

Written statement* submitted by the Jubilee Campaign, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Human Rights and Religious Freedom in the Democratic People's Republic of Korea

Jubilee Campaign, together with Christian Solidarity Worldwide (CSW), both members of the International Coalition to Stop Crimes against Humanity in North Korea (ICNK), seeks to draw the Council's attention to the domestic human rights and religious freedom situation in the Democratic People's Republic of Korea. We welcome the UN Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea's continued efforts to ensure accountability for the gross human rights violations in the country. We applaud the work of the Special Rapporteur and also the Commission of Inquiry (COI) report released in 2014, and we welcome the establishment of the UN Human Rights Office in Seoul that is mandated to strengthen, enhance and maintain DPRK human rights accountability and engagement.

As the security situation remains precarious due to the recent reported nuclear test on the Korean Peninsula, it is necessary to stress that any effort by the international community to engage the DPRK should incorporate a constructive human rights dialogue while seeking to ensure accountability. It is widely known that the human rights situation in the DPRK is one of the most acute and complex situations in the international community. For decades there have been documented testimonies from North Koreans who have experienced or witnessed brutal forms of physical and mental indoctrination and persecution, which violate their rights according to international law.

The COI report on the human rights situation in the DPRK (A/HRC/25/63, published in February 2014, was ground-breaking in highlighting the widespread, systematic and gross violations of the human rights in the country; and characterised many of these violations as crimes against humanity. The report affirms that these violations are not merely excesses of the state, but are essential components of the political system, a totalitarian state where absolute power is centralised in a small group. This absolute power and control is expressed in the vast political and security apparatus in the DPRK that uses surveillance, coercion, fear and punishment to stop any form of dissent. Accountability therefore extends to the leadership who wield absolute power with impunity. The perpetrators' ongoing impunity is due to the unwillingness of the DPRK to implement its international obligation by prosecuting the perpetrators and bringing them to justice, because the perpetrators are acting in accordance with State policy.

Violations that have reportedly occurred and continue to occur include the right to life, right to food, freedom of religion or belief, freedom of movement, enforced disappearances and abductions from other States, arbitrary detention, torture and other inhuman treatment. In many cases these violations are interconnected. For religious believers, especially Christians, these violations are systematic and grave. Since the leadership has classified Christians as a hostile class under the socio-political classification system of *songbun*, any North Korean national found to believe and practise Christianity or to have witnessed Christian activities is persecuted severely. Once detained, Christians are sent to political prison camps (*kwanliso*) where murder, extermination, enslavement, forcible transfer, arbitrary imprisonment, torture, rape and sexual violence, enforced disappearance, as well as other inhumane acts all occur. CSW's 2007 report, *North Korea: A Case to Answer, A Call to Act* documented the brutal and gross human rights violations in these camps. The COI report reiterates these violations and the need for the international community to act, engage the DPRK, and seek a dual resolution of reform and justice.

The human rights situation extends from being a domestic to a regional and global issue. Outstanding issues include family reunifications between North and South Koreans, abductions of Japanese nationals, and North Koreans repatriated from China and Russia. The repatriation of North Koreans is a grave issue because of the serious reprisals by the North Korean government against those it classifies as 'defectors'. North Koreans who cross the border into China (some also cross to Russia, although in lower numbers as the border is smaller and very well guarded) or to a lesser extent Russia are largely fleeing persecution or life threatening situations such as starvation. Countries that receive North Koreans fleeing the DPRK due to genuine human rights concerns, should afford these North Koreans refugee status and immediately cease any policy of forcible repatriation. The COI report states that thousands of repatriated North Koreans over the decades have been subjected to torture, arbitrary detention, summary execution, forced abductions and sexual violence. States must respect the principle of non-refoulement, as well as extend asylum and other means of accommodation and protection for North Koreans who are fleeing the DPRK. Christian North Koreans

who are repatriated face severe punishment and immediate detention in political prison camps. It is therefore paramount that North Koreans' human rights concerns are accepted by China and Russia and the necessary steps taken to protect them and process their asylum claims.

The global concern over the security situation on the Korean Peninsula is linked to the human rights situation in the DPRK and should not overshadow it. In January 2016 the Special Rapporteur stated in the wake of DPRK nuclear test that "any act that can be construed as violence against the international community has negative implications on the human rights situation in the DPRK…Such an act immediately overshadows the continuous efforts by the international community to improve the human rights situation in the DPRK."[1] The security situation perpetuates the human rights violations in the DPRK because the ideology and culture of *juche*, 'military-first politics' and *songbun* use the state of emergency to persecute individuals' rights if it deems those individuals hostile. The pursuit of accountability should continue in parallel with the sustained efforts to seek engagement with the DPRK.

The COI recommended that the human rights situation in the DPRK be referred to the International Criminal Court (A/HRC/25/CRP.1, para 1225(a)). This has also been encouraged by the General Assembly (A/HRC/25/63, para 94(a), and General Assembly Resolution 69/188, para 8). General Assembly Resolution 69/188 was important in illustrating the international community's effort to refer the DPRK human rights situation to the Security Council. The subsequent consideration of the human rights situation in the DPRK by the Security Council on 22 December 2014 and 10 December 2015 are constructive and progressive; however, obstacles remain. The establishment of the Office of the United Nations High Commissioner for the Human Rights office in Seoul, as recommended by the COI (A/HRC/25/CRP.1, para 1225(c)), is another welcomed positive effort by the international community. The office's capacity and mandate to strengthen, enhance and maintain DPRK human rights accountability and engagement should continue to develop and its independence should be maintained, and it should be given adequate resources to carry out its mandate. The development of a human rights contact group (A/HRC/25/CRP.1, para 1225(h)) by states that have historically friendly ties, as well as those in the Six Party talks, should be promoted with a view of creating a platform for addressing the situation and creating initiatives.

Recommendations to the Human Rights Council

- Ensure that the recommendations from the Commission of Inquiry (A/HRC/25/CRP.1) and Special Rapporteur (A/70/362) are implemented.
- Continue to ensure that the Security Council and General Assembly hold regular briefings on the human rights situation in the DPRK with the participation of the UN High Commissioner for Human Rights and other relevant experts, including the Special Rapporteur
- Ensure that human rights are central in any negotiations, whether bilateral or multilateral, between the DPRK and any UN Member State
- Call for the adoption of a UN Security Council resolution addressing human rights and impunity in North Korea
- Support the referral of the human rights situation in the DPRK to the International Criminal Court, based on the Commission of Inquiry's findings that crimes against humanity have occurred
- Support the OHCHR in their mandate; facilitate their work; look to expand their capacity; support their initiatives; ensure their continued independence, sufficient resources, and security are maintained
- Urge the DPRK to invite the UN Special Rapporteur for freedom of religion or belief and other UN Special Procedures to visit the country with unhindered access
- Urge the government of the DPRK to abide by all the international human rights instruments that it has ratified
- Urge the government of the DPRK to cease the discriminatory *songbun* caste system, including the discriminatory hostile classification of religious believers that enables persecution; and urge the government to uphold, in law and practice, freedom of religion and belief as stipulated in Article 18 of the International Covenant on Civil and Political Rights

[1] United Nations Office of the High Commissioner for Human Rights, '"It is now imperative to pursue criminal accountability of the DPRK leadership" – UN Special Rapporteur', 22 January 2016 www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16982&LangID=E

- Urge the government of the DPRK to immediately cease the operation of political prison camps, dismantle them, rehabilitate political prisoners and give them appropriate and immediate assistance.

Christian Solidarity Worldwide, an NGO without consultative status, also shares the views expressed in this statement.